

BEFORE THE IDAHO STATE CONTRACTORS BOARD

In the Matter of the Registration of:)	
)	Case No. CON-2008-151
ANTHONY E. LINDOFF,)	
Registration No. RCT-8958,)	FINAL ORDER
)	
Respondent.)	
_____)	

THIS MATTER is before the Board pursuant to the Findings of Fact, Conclusions of Law and Recommendation (hereafter, "Recommended Order") issued on April 13, 2010, by Paul S. Penland, the designated Hearing Officer in this case. No party has filed exceptions to the Recommended Order or written briefing in support of any such exceptions.

The Board, having independently reviewed the record and considered the Hearing Officer's Recommended Order and all other matters of record, and good cause appearing therefore, issues the following order. IT IS HEREBY ORDERED as follows:

1. Jurisdiction. Idaho Code § 54-5206 empowers the Board to administer the Idaho Contractor Registration Act codified at title 54, chapter 52, Idaho Code. In the course of administering the Act, the Board has jurisdiction over all registered and unregistered persons engaging in the business of, or acting in the capacity of, a contractor in the State of Idaho. *See* Idaho Code § 54-5204(3). The Board may discipline any person who violates the Act. *See* Idaho Code § 54-5215.

2. Findings of Fact and Conclusions of Law. The Hearing Officer's Recommended Order is attached hereto as Exhibit A. It is adopted and incorporated herein by this reference as the Board's findings of fact and conclusions of law. Grounds for discipline exist. The Board may, therefore, impose discipline as specified in Idaho Code § 54-5215 (board may issue informal letters of reprimand, suspend or revoke a registration, impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000), recover the costs and fees incurred in an investigation and prosecution, or issue

a formal reprimand).

3. Discipline Imposed. Based on its findings and conclusions, the Board imposes the following discipline upon Respondent:

a. Respondent's registration, including any right to renew that registration, is revoked.

b. Respondent is fined Two Hundred Fifty and No/100 Dollars (\$250.00). Respondent must pay this fine within sixty (60) days of the issuance of this order.

c. Respondent must pay the fees and costs incurred by the Board to investigate and prosecute this matter. The amount of the fees and costs that Respondent must pay shall be determined as follows:

i. Within forty five (45) days of the issuance of this order, the State must file an affidavit, setting forth the fees and costs incurred to investigate and prosecute this matter.

ii. If Respondent objects to the fees and costs claimed by the State, then Respondent may, within thirty (30) days from the date on which the State serves its affidavit, file a written objection to those fees and costs and, if he desires, a written request for a hearing on the objection. If Respondent files a timely objection to the State's claimed fees and costs, then the Board will consider Respondent's objection in determining the amount of costs and fees that Respondent must pay. If, however, Respondent fails to file a timely objection, then the Respondent will have waived Respondent's ability to object, and Respondent must pay the total fee and cost amount set forth in the State's affidavit.

iii. Within ninety (90) days of the issuance of this order: (a) if Respondent filed a timely objection, then Respondent must pay the total fee and cost amount as determined by the Board; or (b) if Respondent did not file a timely objection, then Respondent must pay the total fee and cost amount set forth in the State's affidavit.

4. Due Process Rights. This is a final order of the Board. Accordingly:

a. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the issuance of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See Idaho Code § 67-5246(4).*

b. Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (i) a hearing was held; (ii) the final agency action was taken; (iii) the party seeking review of the order resides, or operates its principal place of business in Idaho; or (iv) the real property or personal property, if any, that was the subject of the agency action is located.

c. Any appeal must be filed within twenty-eight (28) days of: (i) the issuance of this final order; (ii) the issuance of an order denying a petition for reconsideration; or (iii) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See Idaho Code § 67-5273.* The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

5. Service of Order. The Bureau Chief of the Bureau of Occupational Licenses shall cause a true and correct copy of this order to be served upon the Respondent and the State's attorney by mailing a copy to them at their respective addresses, as provided.

DATED this 28th day of June, 2010.

IDAHO STATE CONTRACTORS BOARD

By


Anthony Hughes, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2010, I caused to be served a true and correct copy of the foregoing by the following method to:

Anthony E. Lindoff
121 Roosevelt
Pocatello, ID 83201

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Bureau Chief

ORIGINAL

BEFORE THE CONTRACTORS BOARD

RECEIVED

STATE OF IDAHO

APR 14 2010

In the Matter of the Registration of:

OCCUPATIONAL LICENSES

ANTHONY E. LINDOFF

Registration No. RCT-8958,

Respondent.

Case No. CON-2008-151

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDATION**

PROCEDURAL MATTERS

This matter came before the Hearing Officer at a hearing held on April 6, 2010. The hearing was set for 9:30 a.m. At the time set for the hearing, Deputy Attorney General Karin Magnelli was present for the State of Idaho Contractors Board, but no one appeared on behalf of Anthony E. Lindoff (hereinafter Respondent). The start of the hearing was delayed for ten minutes to allow for the potential of Respondent's delayed arrival, but Respondent did not appear. The record was opened, and the Hearing Officer reported that he had not been contacted by Respondent since the date the Notice of Hearing was transmitted. After inquiry, Karin Magnelli reported that she had not been contacted by Respondent since the date the Notice of Hearing was transmitted. After inquiry, Marcy McGinty, the Idaho Board of Occupational Licenses employee charged with keeping the records of the Contractors Board, reported that she had not been contacted by Respondent and that her search of the Contractors Board records relating to this action did not reflect a contact by Respondent with any other person employed by the Bureau of Occupational Licenses.

The Hearing Officer takes administrative notice that his file contained a "return receipt" from the United States Postal Service showing that the Notice of Hearing which had been mailed to Respondent on March 5, 2010, had been received by "Anthony

Lindoff" on or about March 11, 2010 and that no one appeared at the time of the hearing on behalf of Respondent..

Counsel for the Board was asked if she had evidence she wanted to present at the hearing. She offered into evidence **Exhibit A**--a "Statement" from Valley Lumber and Rental to "Tony's Paint" showing an amount due of \$1,975.54 as of May 22, 2007, and **Exhibit B**--a "Credit Application" from Valley Lumber and Rental for "Tony's Paint LC# (sic) 8958" apparently signed by Anthony Lindoff on or about February 25, 2005. Deputy Attorney General Magnelli moved for the admission of both exhibits and both were admitted into evidence by the Hearing Officer.

Deputy Attorney General Magnelli then moved for entry of default based upon the Complaint, the Answer, the evidence admitted at hearing and Respondent's failure to appear for the hearing. The Hearing Officer finds that, based upon the Respondent's failure to appear and participate in the hearing, there is good cause for entry of default, and the Hearing Officer HEREBY ENTERS AN ORDER OF DEFAULT AGAINST RESPONDENT.

FINDINGS OF FACT

Based upon the Complaint, the "Answer" and the exhibits introduced at hearing, the Hearing Officer finds the following to be fact.

1. Respondent received a copy of the complaint as it was served by regular and certified mail which was mailed on or about July 24, 2009 with the "return receipt reflecting receipt by Respondent on July 30, 2009. Respondent received a copy of the Order Setting Hearing as it was served by regular and certified mail which was mailed on or about March 5, 2010 with the "return receipt " reflecting receipt by Respondent on March 11, 2010, notice of the hearing, but Respondent did not appear to participate in the proceedings.

2. Respondent Anthony E. Lindoff was registered with the Board under Registration No. RCT-8958 to engage in contracting in the state of Idaho. Respondent's

registration expired on December 29, 2007, and Respondent's registration was canceled as of December 30, 2007. Respondent has not renewed his registration; however, pursuant to Idaho Code § 67-2614, Respondent retains the right to renew his registration for up to five (5) years after cancellation by paying the required fees.

3. On or about July 25, 2005, Respondent, doing business as Tony's Paint, signed a Credit Application (**Exhibit A**) with Valley Lumber and Rental that provided invoices were due and payable on the 10th of the month following the date of purchase/invoice.

4. A statement dated May 22, 2007, shows Respondent's account had a balance owing of \$1,975.54 for charges made beginning July 2006 and ending September 2006. The statement showed Respondent made one payment for \$84.62 on February 27, 2007. A copy of the statement is attached as **Exhibit A**.

5. On February 22, 2008, Valley Lumber and Rental obtained a default judgment against Respondent.

6. Respondent's actions as described above constitute a violation of the laws and rules governing the practice of contracting, specifically Idaho Code § 54-5215(2)(g) (dishonest or dishonorable dealings).

7. Respondent's failure to appear at the hearing after receiving notice constitutes good cause for entry of default against Respondent.

CONCLUSIONS OF LAW

The Hearing Officer makes the following Conclusions of Law:

1. Respondent received a copy of the complaint as it was served by regular and certified mail which was mailed on or about July 24, 2009 with the "return receipt" reflecting receipt by Respondent on July 30, 2009. Respondent also received notice of the hearing, and Respondent's failure to appear at the hearing after receiving the complaint and the notice constitutes good cause for entry of default against him.

2. At all times material to the matters asserted in the Complaint, Respondent was registered with the Board under Registration No. RCT-8958 and, as such, Respondent is subject to the jurisdiction of the Board. Although Respondent's license was not renewed and it expired on December 29, 2007, Respondent retains the right to renew his license for up to five (5) years after cancellation by payment of the required fees.

3. Respondent's actions as described in Findings of Fact Nos. 3-6 above constitute a violation of Idaho Code § 54-5215(2)(g).

4. Although Respondent's default has been entered and the Hearing Officer is not required to address the matters raised in Respondent's letter of October 10, 2009, which the Hearing Officer has elected to treat as an answer, the Hearing Officer addresses the matters asserted in the "Answer" as follows:

(a) Respondent asserts that another party was obligated to pay the Valley Lumber and Rental bill. In the absence of evidence to support this assertion, the Hearing Officer concludes as a matter of law that the assertion does not constitute a valid defense to the Board's Complaint;

(b) Respondent asserts that an action in the Small Claims Court by Valley Lumber and Rental which resulted in a judgment against Respondent should remove the issue of Respondent's nonpayment from the Board's review. The Hearing Officer concludes as a matter of law that, if true, this assertion does not constitute a valid defense to the Board's Complaint. Indeed, assuming it is true, the Hearing Officer would conclude as a matter of law that Respondent's failure to pay Valley Lumber and Rental and the entry of a judgment in favor of Valley Lumber and Rental against Respondent constitute a violation of Idaho Code § 54-5215(2)(g) which addresses dishonest or dishonorable dealings; and

(c) Respondent asserts that he was not a registered contractor at some time during his dealings with Valley Lumber and Rental. The Hearing Officer

notes that **Exhibit A** demonstrates that a billing was made to Respondent on or about May 22, 2007, and that Respondent's license did not expire until December 29, 2007. Thus, the Hearing Officer concludes as a matter of law that Respondent's assertion on this point does not constitute a valid defense to the Board's Complaint.

5. Respondent's violation of Idaho Code § 54-5215(2)(g) constitutes a basis for imposition of discipline upon Respondent by the Board.

RECOMMENDATION

The Hearing Officer recommends that the Board impose such discipline upon Respondent as it deems appropriate based upon the Hearing Officer's Findings of Fact and Conclusions of Law.

DATED this 13th day of April, 2010.



Paul S. Penland, Hearing Officer

CERTIFICATE OF SERVICE

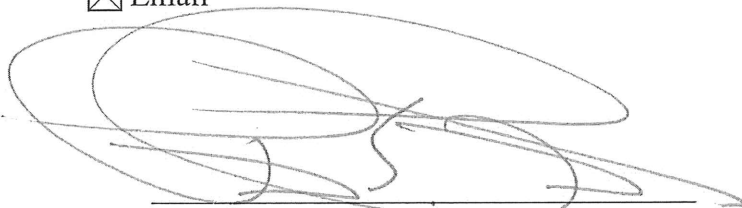
I hereby certify that on this 13th day of April, 2010, I caused to be served a true and correct copy of the foregoing Complaint by the following method to:

Anthony E. Lindoff
121 Roosevelt
Pocatello, ID 83201

☒ U.S. Mail
☐ Hand Delivery
☒ Certified Mail, Return Receipt Requested

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail
☐ Hand Delivery
☐ Certified Mail, Return Receipt Requested
☒ Email



Paul S. Penland, Hearing Officer

STATEMENT

PAGE: 1 VALLEY LUMBER AND RENTAL
 9 SAGEBRUSH DR.
 VICTOR, ID 83455
 vlr@tetontel.com
 (208) 787-WOOD

CLOSING DATE: 5/22/07
 DUE DATE : 6/10/07
 ACCT: 1945

CLOSING
 DATE : 5/22/07
 DUE DATE: 6/10/07

VALLEY LUMBER AND

TONY'S PAINT
 121 ROOSEVELT
 POCATELLO ID 83201

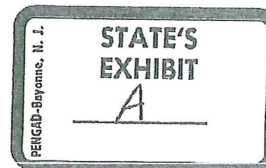
TONY'S PAINT
 ACCOUNT : 1945

|||||

PLEASE DETACH AND RETURN
 REMITTANCE STUB WITH YOUR PAYMENT

DATE	REFERENCE	ST	C	DESCRIPTION	DEBIT	CREDIT	REFERENCE	AMOUNT
7/26/06	112358	1	I	ORDR # 112358	94.02		112358	94.02
7/26/06	112494	1	I	ORDR # 112494	85.83		112494	85.83
8/ 1/06	114529	1	I	VICTOR MEADOWS	713.87		114529	713.87
8/ 1/06	114539	1	I	ORDR # 114539	39.38		114539	39.38
8/ 1/06	114548	1	I	ORDR # 114548	351.70		114548	351.70
8/ 3/06	115671	1	I	ORDR # 115671	288.70		115671	288.70
8/ 5/06	116405	1	I	ORDR # 116405	37.77		116405	37.77
8/15/06	121394	1	I	ORDR # 121394	40.44		121394	40.44
8/16/06	121876	1	C	ORDR # 121876		15.21	121876	-15.21
8/16/06	122008	1	I	ORDR # 122008	44.79		122008	44.79
8/17/06	122395	1	I	ORDR # 122395	23.78		122395	23.78
8/18/06	122890	1	I	ORDR # 122890	52.01		122890	52.01
8/30/06	127223	1	I	ORDR # 127223	9.32		127223	9.32
9/ 5/06	128812	1	I	ORDR # 128812	5.55		128812	5.55
9/ 5/06	128814	1	C	ORDR # 128814		2.42	128814	-2.42
9/ 8/06	130373	1	I	PO # VICTOR MEADO	6.08		130373	6.08
9/12/06	132563	1	I	ORDR # 132563	3.14		132563	3.14
9/13/06	133141	1	I	PO # VICTOR MEADO	7.76		133141	7.76
9/18/06	134756	1	I	VICTOR MEADOWS	22.66		134756	22.66
9/24/06	652561	1	F	FINANCE CHARGE	30.98		652561	30.98
10/24/06	437824	1	F	FINANCE CHARGE	31.93		437824	31.93
11/24/06	455823	1	F	FINANCE CHARGE	31.93		455823	31.93
12/24/06	651484	1	F	FINANCE CHARGE	31.93		651484	31.93
1/24/07	482820	1	F	FINANCE CHARGE	31.93		482820	31.93
2/24/07	503395	1	F	FINANCE CHARGE	31.93		503395	31.93

CONTINUED



CONTINUED

AMOUNT PAID

Transaction Codes
 A - Adjustment C - Credit I - Invoice
 B - Balance Forward F - Finance Charge P - Payment

statement covers transactions on your account for the period ending on the date above. Charges, payments, and credits received after the above date will be shown on your next statement.

Exhibit A
 Page 7 of 10



STATEMENT



PAGE: 2 VALLEY LUMBER AND RENTAL
9 SAGEBRUSH DR.
VICTOR, ID 83455
vlr@tetontel.com
(208) 787-WOOD

CLOSING DATE: 5/22/07
DUE DATE : 6/10/07
ACCT: 1945

CLOSING
DATE : 5/22/07
DUE DATE: 6/10/07

TONY'S PAINT
121 ROOSEVELT
POCATELLO ID 83201

VALLEY LUMBER AND
TONY'S PAINT
ACCOUNT : 1945



PLEASE DETACH AND RETURN
REMITTANCE STUB WITH YOUR PAYMENT

DATE	REFERENCE	ST	C	DESCRIPTION	DEBIT	CREDIT	REFERENCE	AMOUNT
2/28/07	B96514	1	P	PAYMENT TO DOC #112358		84.62	B96514	-84.62
3/24/07	310993	1	F	FINANCE CHARGE	30.18		310993	30.18
4/24/07	331335	1	F	FINANCE CHARGE	30.18		331335	30.18
				NEW BALANCE	1975.54			

YOUR ACCOUNT IS SEVERELY PAST DUE, REMIT PAYMENT IMMEDIATELY

CURRENT	1-30 DAYS	31-60 DAYS	61-90 DAYS	OVER 90 DAYS
30.18	30.18	31.93	31.93	1851.32

NEW BAL: 1975.54

FINANCE CHARGE-- TERMS: NET 10TH
MONTHLY % : 1.75
ANNUAL % : 21.00

FINANCE CHRG: 30.18
F/C BALANCE : 0.00
F/C MIN AMT : 0.50
F/C METHOD : A

1945

Transaction Codes
A - Adjustment C - Credit I - Invoice
B - Balance Forward F - Finance Charge P - Payment

Statement covers transactions on your account for the period ending on the date above. Charges, payments, and credits received after the above date will be shown on your next statement.

AMOUNT PAID

Valley Lumber & Rental

Credit application

Please fill out completely

Date 7-25-05

1. Company name TONY'S & PAINT LC #7732

2. Mailing Address 121 Roosevelt

8958 2/2/07
SN

Street address (required) 121 Roosevelt

City Pocatello State IA Zip code 83201

3. Telephone (208) 380-5389 Fax _____

4. Type of Business Corporation _____ Partnership _____ Individual X

5. Ownership/Principals in Business

Name ANTHONY LINDOFF

Address 121 Roosevelt

Phone Number 380-5389

Name _____

Address _____

Phone Number _____

6. Number of years in Business 6 Nature of Business PAINTING

7. Bank Name ADCF + FCS Account # _____

8. Bank Contact KAMALI Phone # 232-7711

9. Business References.

Name BRIAN MAW

Contact JCS

Address VICTOR

Phone Number 201-2476

Name WALLY STEPHENS

Contact WALLY

Address Pocatello

Phone Number 223-6688

Name BURRICH TOYNE

Contact JCS

Address 2253 RIVERS RD

Phone Number 226-2533

(Complete reverse side)

Exhibit A

Page 9 of 10

Exh. No. B
Date 04/06/2010
Name
HEARING
M & M Court Reporting

10. List of Persons allowed to charge on this account.

1. Kurt Young 2. Tony Lindoff 3. _____
4. _____ 5. _____ 6. _____
7. _____ 8. _____ 9. _____
10. _____ 11. _____ 12. _____

11. Terms of Sale:

Invoices are due and payable on the 10th of the month following the date of purchase/ invoice. It is extremely important that you keep your account current. A statement of your account will be sent to you at the first of every month listing your charges and invoices. There will be a copy of your invoices included with your statement.

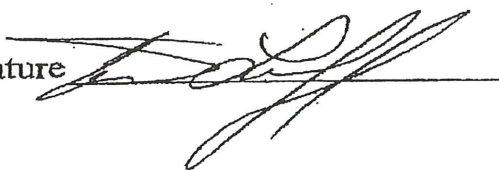
There will be a finance charge of 1 3/4 % per month on accounts 30 days past due.

If it becomes necessary for Valley Lumber & Rental to employ a collection agency and/ or an attorney to collect this account, I the undersigned agree to pay all costs of collection plus reasonable attorneys fees and /or collections fees.

I have read these terms of sale and understand agree to the terms.

12. Printed Name Anthony Lindoff

Signature



Date

7-25-08

Exhibit

Page 10 of 10